

# OTTINGER

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**By ECF and Electronic Mail**

Hon. Andrew Carter  
United States District Judge  
United States District Court  
Southern District of New York  
40 Foley Sq, Rm 435  
New York, NY 10007

**Re: Pagan v. C.I. Lobster Corp., et al.  
No. 20-cv-7349 (ALC)(SDA)**

Dear Judge Carter:

As you know, we represent Plaintiff and the putative class in the above-referenced matter. Pursuant to the Court's Order dated August 2, 2021, I write to oppose Defendants' request for more time to file objections to U.S. Magistrate Judge Aaron's July 16, 2021 Order denying Defendants' motion to disqualify Plaintiff's counsel and for a hearing to determine whether The Ottinger Firm, P.C. conveyed Defendants' desire to settle, and settlement offer to Plaintiff, among other things.

Defendants' proffered reasons for objecting are meritless, much like their initial motion. Contrary to Defendants' assertions, it was not necessary for Magistrate Judge Aaron to observe the demeanor or credibility of witnesses because Defendants' claims were based on text messages and voicemail recordings. Moreover, Defendants are seeking a hearing as to whether a settlement offer was communicated to Plaintiff during a mediation in which the settlement offer was communicated to the Plaintiff, and plaintiff's counsel, by the mediator directly. The inquiry requested by Defendant is prohibited by the mediation privilege and require testimony from the mediator about settlements offers.

Lastly, if Defendants had deadlines on other cases that prevented them from drafting objections or an anticipated motion under Rule 72, they should have sought the instant extension earlier than July 30, 2021, which was the last day to submit objections. In any event, fourteen (14) days was an adequate amount of time to submit objections or make a Rule 72 motion.

We thank the Court for its attention to this matter.

Respectfully submitted,

/s/ Finn Dusenberry  
Finn Dusenberry